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Elimination of racism, racial discrimination, xenophobia and related intolerance

Belarus, Kazakhstan, Myanmar, Russian Federation, Sudan, Tajikistan, Turkmenistan and Venezuela (Bolivarian Republic of): draft resolution

Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenant on Civil and Political Rights,[2] the International Convention on the Elimination of All Forms of Racial Discrimination[3] and other relevant human rights instruments,

Recalling the provisions of Commission on Human Rights resolutions 2004/16 of 16 April 2004[4] and 2005/5 of 14 April 2005[5] and relevant Human Rights Council resolutions, in particular resolution 7/34 of 28 March 2008,[6] as well as General Assembly resolutions 60/143 of 16 December 2005, 61/147 of 19 December 2006, 62/142 of 18 December 2007, 63/162 of 18 December 2008 and 64/147 of 18 December 2009 on this issue and resolutions 61/149 of 19 December 2006, 62/220 of 22 December 2007, 63/242 of 24 December 2008 and 64/148 of 18 December 2009 entitled "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow up to the Durban Declaration and Programme of Action",

[1] Resolution 217 A (III).
[2] See resolution 2200 A (XXI), annex.
[3] United Nations, *Treaty Series*, vol. 660, No. 9464.
[4] See *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.
[5] Ibid., *2005, Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.
[6] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53* (A/63/53), chap. II.

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Recalling also the Charter of the Nuremberg Tribunal and the Judgement of the Tribunal, which recognized, inter alia, the SS organization and all its integral parts, including the Waffen SS, as criminal and declared it responsible for many war crimes and crimes against humanity,

Recalling further the relevant provisions of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001,[7] in particular paragraph 2 of the Declaration and paragraph 86 of the Programme of Action, as well as the relevant provisions of the outcome document of the Durban Review Conference, of 24 April 2009,[8] in particular paragraphs 11 and 54,

Alarmed, in this regard, at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, as well as similar extremist ideological movements,

Recalling that in 2010 the international community celebrated the sixty-fifth anniversary of victory in the Second World War, and welcoming in this regard the special solemn meeting of the sixty-fourth session of the General Assembly on 6 May 2010,

Recalling also that the sixty-fifth session of the General Assembly coincides with the sixty-fifth anniversary of the establishment of the Nuremberg Tribunal and the adoption of its Charter,

1. *Reaffirms* the relevant provisions of the Durban Declaration[7] and of the outcome document of the Durban Review Conference,[8] in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial and national prejudice and stated that those phenomena could never be justified in any instance or in any circumstances;

2. *Takes note with appreciation* of the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, prepared in accordance with the request contained in General Assembly resolution 64/147;[9]

3. *Expresses its appreciation* to the United Nations High Commissioner for Human Rights for her commitment to maintain the fight against racism as one of the priority activities of her Office;

4. *Expresses deep concern* about the glorification of the Nazi movement and former members of the Waffen SS organization, including by erecting monuments and memorials and holding public demonstrations in the name of the glorification of the Nazi past, the Nazi movement and neo-Nazism, as well as by declaring or attempting to declare such members and those who fought against the anti-Hitler coalition and collaborated with the Nazi movement participants in national liberation movements;

5. *Expresses concern* at recurring attempts to desecrate or demolish monuments erected in remembrance of those who fought against Nazism during the Second World War, as well as to unlawfully exhume or remove the remains of such

[7] See A/CONF.189/12 and Corr.1, chap. I.
[8] See A/CONF.211/8, chap. I.
[9] See A/65/323.

persons, and urges States in this regard to fully comply with their relevant obligations, inter alia, under article 34 of Additional Protocol I to the Geneva Conventions of 1949;[10]

6. *Notes with concern* the increase in the number of racist incidents in several countries and the rise of skinhead groups, which have been responsible for many of these incidents, as well as the resurgence of racist and xenophobic violence targeting members of ethnic, religious or cultural communities and national minorities, as observed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his latest report;

7. *Reaffirms* that such acts may be qualified to fall within the scope of activities described in article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination[3] and that they may represent a clear and manifest abuse of the rights to freedom of peaceful assembly and of association as well as the rights to freedom of opinion and expression within the meaning of those rights as guaranteed by the Universal Declaration of Human Rights,[1] the International Covenant on Civil and Political Rights[2] and the International Convention on the Elimination of All Forms of Racial Discrimination;

8. *Stresses* that the practices described above do injustice to the memory of the countless victims of crimes against humanity committed in the Second World War, in particular those committed by the SS organization and those who fought against the anti-Hitler coalition and collaborated with the Nazi movement, and poison the minds of young people, and that failure by States to effectively address such practices is incompatible with the obligations of States Members of the United Nations under its Charter and is incompatible with the goals and principles of the Organization;

9. *Also stresses* that such practices fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contribute to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and in this regard calls for increased political and legal vigilance;

10. *Emphasizes* the need to take the measures necessary to put an end to the practices described above, and calls upon States to take more effective measures in accordance with international human rights law to combat those phenomena and the extremist movements, which pose a real threat to democratic values;

11. *Recalls* the recommendation of the Special Rapporteur made in his latest report to the General Assembly, to introduce in domestic criminal law a provision according to which committing an offence with racist or xenophobic motivations or aims constitutes an aggravating circumstance allowing for enhanced penalties, and encourages those States whose legislation does not contain such provisions to consider the said recommendation;

12. *Reaffirms*, in this regard, the particular importance of all forms of education, including human rights education, as a complement to legislative measures, as outlined by the Special Rapporteur;

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[10] United Nations, *Treaty Series*, vol. 1125, No. 17512.

13. *Emphasizes* the recommendation of the Special Rapporteur regarding the importance of history classes in teaching the dramatic events and human suffering that resulted from the ideologies of Nazism and Fascism;

14. *Stresses* the importance of other positive measures and initiatives aimed at bringing communities together and providing them with space for genuine dialogue, such as round tables, working groups and seminars, including training seminars for State agents and media professionals, as well as awareness-raising activities, especially those initiated by civil society representatives which require continued State support;

15. *Underlines* the potentially positive role that relevant United Nations entities and programmes, in particular the United Nations Educational, Scientific and Cultural Organization, can play in the aforementioned areas;

16. *Reaffirms* that, according to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties to that instrument are, inter alia, under the obligation:

(a) To condemn all propaganda and all organizations that are based on ideas of racial superiority or that attempt to justify or promote racial hatred and discrimination in any form;

(b) To undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention;

(c) To declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(d) To declare illegal and prohibit organizations and organized and all other propaganda activities that promote and incite racial discrimination and to recognize participation in such organizations or activities as an offence punishable by law;

(e) To prohibit public authorities or public institutions, national or local, from promoting or inciting racial discrimination;

17. *Reaffirms also* that, as underlined in paragraph 13 of the outcome document of the Durban Review Conference, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence should be prohibited by law, as should the dissemination of ideas based on racial superiority, hatred, acts of violence or incitement to such acts, and that these prohibitions are consistent with freedom of opinion and expression;

18. *Expresses concern* about the use of the Internet to propagate racism, racial hatred, xenophobia, racial discrimination and related intolerance, as outlined in the report of the Special Rapporteur to the General Assembly;

19. *Underlines*, at the same time, the positive role that the exercise of the right to freedom of opinion and expression, as well as the full respect for the freedom to seek, receive and impart information, including through the Internet, can play in combating racism, racial discrimination, xenophobia and related intolerance;

20. *Encourages* those States that have made reservations to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination to give serious consideration to withdrawing such reservations as a matter of priority, as stressed by the Special Rapporteur in his latest report to the General Assembly;

21. *Encourages* States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination to ensure that their legislation incorporates the provisions of (the) said Convention, including those of its article 4;

22. *Recalls* the request of the Commission on Human Rights in its resolution 2005/5[5] that the Special Rapporteur continue to reflect on this issue, make relevant recommendations in his future reports and seek and take into account in this regard the views of Governments and non-governmental organizations;

23. *Requests* the Special Rapporteur to prepare, for submission to the General Assembly at its sixty-sixth session and to the Human Rights Council, reports on the implementation of the present resolution based on the views collected in accordance with the request of the Commission on Human Rights, as recalled by the Assembly in paragraph 22 above;

24. *Expresses its appreciation* to those Governments and non-governmental organizations that have provided information to the Special Rapporteur in the course of the preparation of his report to the General Assembly;

25. *Stresses* that such information is important for the sharing of experiences and best practices in the fight against extremist political parties, movements and groups, including neo-Nazis and skinhead groups, as well as extremist ideological movements;

26. *Encourages* Governments and non-governmental organizations to cooperate fully with the Special Rapporteur in the exercise of the tasks outlined in paragraph 22 above;

27. *Encourages also* Governments, non-governmental organizations and relevant actors to disseminate as widely as possible information regarding the contents of and the principles outlined in the present resolution, including through, but not limited to, the media;

28. *Decides* to remain seized of the issue.